

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**PARKERSBURG DIVISION**

CORNELIUS TUCKER,

Plaintiff,

v.

CIVIL ACTION NO. 6:06-cv-00071

DARRELL HARPER,

Defendant.

**ORDER**


This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommends that the court **GRANT** the United States's Motion to Dismiss for Lack of Subject Matter Jurisdiction. The Magistrate Judge also recommends that the court **DENY AS MOOT** plaintiff Cornelius Tucker's request for appointment of counsel.

The plaintiff timely filed objections to the Magistrate Judge's findings of fact and recommendation. In his objections, the plaintiff claims that the Magistrate Judge abused her office and engaged in "judicial misconduct and consanguinity acts." Having reviewed all of the plaintiff's objections *de novo*, the court **FINDS** that they are without merit. Accordingly, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge, **DISMISSES** the plaintiff's complaint with prejudice, and **DENIES AS MOOT** the plaintiff's request for appointment of counsel.

The plaintiff also seeks leave to amend his complaint to state a Federal Torts Claim Act ("FTCA") claim. Since the plaintiff filed his objections, however, he has filed a separate action asserting an FTCA claim. Accordingly, the court **DENIES AS MOOT** the plaintiff's request to amend his complaint.

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: July 10, 2006

  
A handwritten signature in black ink, appearing to read "Joseph R. Goodwin", is written over a horizontal line.  
JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE